

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

SHIELDMARK, INC.)	CASE NO. 1:12-cv-00223-DCN
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	
INSITE SOLUTIONS, LLC)	<u>PLAINTIFF'S FINAL INFRINGEMENT</u>
)	<u>CONTENTIONS PURSUANT TO</u>
Defendant.)	<u>LOCAL PATENT RULE 3.10(b)</u>

Plaintiff ShieldMark, Inc. ("ShieldMark"), by and through counsel and pursuant to Local Patent Rule 3.10(b), provides these Final Infringement Contentions ("Contentions") which supplement the information previously provided pursuant to Local Patent Rule 3.1 based on information reasonably available to it at this time.

Discovery is ongoing and ShieldMark's disclosure is therefore given without prejudice to ShieldMark's right to add to, supplement, amend, or modify its disclosure as additional facts are ascertained, analyses are made, and research is completed.

I. L.P.R. 3.1 (a)

Based on information presently available to it, ShieldMark contends that Defendant infringes on Claims 2 – 8, 10, 12 and 13 of U.S. Patent No. 8,088,480 issued on January 3, 2012 and entitled "Adhesive Tape" ("the '480 Patent") under at least 35 U.S.C. § 271(a), (b), and (e).

II. L.P.R. 3.1 (b)

Based on information presently available to it, ShieldMark contends that Defendant's adhesive tape for floor marking under the name "Superior Mark" infringes on the claims identified above. ShieldMark reserves the right to assert infringement claims against additional

instrumentalities, including sales of products manufactured by others that utilize the claimed invention, as permitted under the rules.

III. L.P.R. 3.1 (c)

See Claim Charts, attached as Exhibit 1.

IV. L.P.R. 3.1 (d)

Based on currently available information and belief, ShieldMark contends that the Defendant is directly infringing on the ‘480 Patent through its “Superior Mark” branded tapes and further contends that the use of its “Superior Mark” branded tapes by others directly infringe on the ‘480 Patent, for which Defendant is liable for inducement and/or contributory infringement. Defendant has had knowledge of the ‘480 Patent and its infringement. Upon information and belief, Defendant affirmatively intends to cause its customers to directly infringe the ‘480 Patent by using its “Superior Mark” branded tapes. The “Superior Mark” branded tapes are not a commodity or a staple article of commerce suitable for substantial non-infringing uses. In addition to or in the alternative, Defendant also controls, directs or instructs users of its “Superior Mark” branded tapes, resulting in joint acts of infringement.

V. L.P.R. 3.1 (e)

ShieldMark presently contends and believes that the limitations of Claims 5 – 8, 10, 12 and 13 are present literally in the “Superior Mark” branded tapes. To the extent that Defendant asserts that certain, specific elements of the claims are not literally met by Defendant’s products, or that such elements are, in fact, found to not be present literally, then ShieldMark contends that any differences between the subject elements and the accused “Superior Mark” branded tapes are insubstantial and thus infringe under the doctrine of equivalents. With respect to Claims 2 – 4,

Plaintiff asserts that the accused “Superior Mark” branded tapes infringe under the doctrine of equivalents.

VI. L.P.R. 3.1 (f)

The ‘480 Patent does not claim priority to any earlier application.

VII. L.P.R. 3.1 (g)

ShieldMark presently alleges willful infringement based on Defendant’s knowledge of the ‘480 Patent and its actions in continuing to make, use, sell, and offer “Superior Mark” branded tapes for sale.

Respectfully submitted,

/s/Martin J. Pangrace

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CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of May, 2013, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/Martin J. Pangrace

Attorney for Plaintiff